D.B.CIVIL LEAVE TO APPEAL No. 1/2006
Mohan Lal & ors. v. State of Rajasthan & ors.

Date of order : 08.08.2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri N.S.Acharya for the appellants

This special appeal is directed against the order of the learned Single Judge dated 9.3.2006 titled Hemraj Bhavsar v. State of Rajasthan in bunch writ petitions.

Brief facts of the case are that the Patwaris of Irrigation Department were transferred to Revenue Department where they were absorbed. Posts of Patwaris in the Irrigation Department were again created and decision was taken to send 658 Patwaris back to the Irrigation Department after taking option as per order dated 21.1.2006. They filed writ petitions challenging the decision of the Government. The learned Single Judge took the view that in view of the option clause the grievance does not survive. Disposing of the writ petitions the learned Single Judge observed that instead of effecting transfers action may be taken in accordance with and in furtherence of Annexure 15 i.e. order dated 21.1.2006 (supra).

The appellants are the Patwaris of Revenue Department and they are aggrieved by continuance of said Patwaris of Irrigation

Department in the Revenue Department. They did not figure as party to the connected writ petitions nor they intervened in the proceedings. It is submitted by the counsel that the order of the learned Single Judge is being misunderstood by the department to mean that the erstwhile Patwaris of Irrigation Department cannot be transferred to the Irrigation Department without their consent. It is said that their continuance in the Revenue Department is likely to affect their seniority and chances of promotion etc.

Without expressing any opinion on merit of the case we are of the view that it is open to the appellants to file a writ petition of their own or seek clarification of the impugned order dated 9.3.2006 by filing suitable application.

With these observations the appeal is disposed of.

(MOHAMMAD RAFIQ), J. (S.N.JHA), C.J.

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